

Decision 03-05-066 May 22, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Rulemaking 03-03-017
(Filed March 13, 2003)

Order Instituting Investigation on the
Commission's Own Motion to Re-Examine the
Underlying Issues Involved in the Submetering
Discount for Mobile Home Parks and to Stay
D.01-08-040.

Investigation 03-03-018
(Filed March 13, 2003)

Robert Hambley, for Himself and, on Behalf of
the Residents of Los Robles Mobilehome Park,

Complainant,

vs.

Hillsboro Properties, a California Limited
Partnership, and the City of Novato,

Defendants.

Case 00-01-017
(Filed January 14, 2000)

DECISION ADDRESSING CATEGORIZATION

I. Summary

The category of Rulemaking (R.) 03-03-017 and Investigation (I.) 03-03-018 was previously set as quasi-legislative. The proceedings could ultimately set rates. Therefore, to avoid confusion, and in the interest of administrative efficiency, we change the category to ratesetting.

II. Discussion

The Commission's order initiating R.03-03-017 and I.03-03-018 divided the proceedings into two phases.¹ Phase 1 would identify the components of the cost to the utility, to directly serve mobile home park (MHP) customers, that are avoided when the customer is served through a master meter. Phase 2 would address other matters related to the MHP discount. The order did not specify a preliminary categorization.

On April 22, 2003, the Assigned Commissioner issued an Assigned Commissioner's Ruling and Scoping Memo that identified the category as quasi-legislative. On May 2, 2003, Pacific Gas and Electric Company (PG&E) and The Utility Reform Network (TURN) filed an appeal of the categorization of these proceedings. The appeal points out that the order initiating these two proceedings identified Phase 2 as addressing the possibility of setting a uniform state-wide MHP discount, and a means of mitigating the cost to MHP owners of conversion to directly metered service. PG&E and TURN believe that these issues go beyond the definition of quasi-legislative and fit the definition of ratemaking. Therefore, they ask that either this proceeding be recategorized as

¹ Case 00-01-017 was previously categorized as adjudicatory. Its category is not at issue.

ratesetting, or that the Commission explicitly state that requests for recategorization of Phase 2 will be entertained at a later time. PG&E and TURN do not dispute that Phase 1 and Phase 2 can be categorized differently, or that Phase 1 can be appropriately categorized as quasi-legislative. No party filed a response to the appeal.

One option is to set Phase 1 as quasi-legislative, and Phase 2 as ratesetting. However, this would necessitate a change in the ex parte contact rules during the course of the proceeding that could result in confusion for parties with less experience in Commission proceedings. Such confusion could result in inadvertent violations of the ex parte rules that would have to be addressed. Therefore, we believe it would be less confusing and administratively more efficient to categorize R.03-03-017 and I.03-03-018 as ratesetting. In addition, as provided by Rule 6.1(c), when a proceeding does not clearly fit into a particular category, the proceeding is to be “conducted under the rules applicable to the ratesetting category.”

III. Comments on Draft Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

IV. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On April 22, 2003, the assigned Commissioner issued an Assigned Commissioner's Ruling and Scoping Memo that identified the category of R.03-03-017 and I.03-03-018 as quasi-legislative.

2. On May 2, 2003, PG&E and TURN filed an appeal of the categorization of R.03-03-017 and I.03-03-018.

3. No party filed a response to the appeal.

4. No party disputes the categorization of Phase 1 as quasi-legislative.

5. Phase 2 could result in rates being set.

6. Setting Phase 1 as quasi-legislative, and Phase 2 as ratesetting would necessitate a change in the ex parte contact rules during the course of the proceedings that could result in confusion for parties with less experience in Commission proceedings.

Conclusions of Law

1. It would be less confusing, and administratively more efficient, to categorize R.03-03-017 and I.03-03-018 as ratesetting.

2. Rule 6.1(c), provides that when a proceeding does not clearly fit into a particular category, the proceeding is to be “conducted under the rules applicable to the ratesetting category.”

3. R.03-03-017 and I.03-03-018 should be categorized as ratesetting.

O R D E R

IT IS ORDERED that Rulemaking 03-03-017 and Investigation 03-03-018 are categorized as ratesetting.

This order is effective today.

Dated May 22, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners